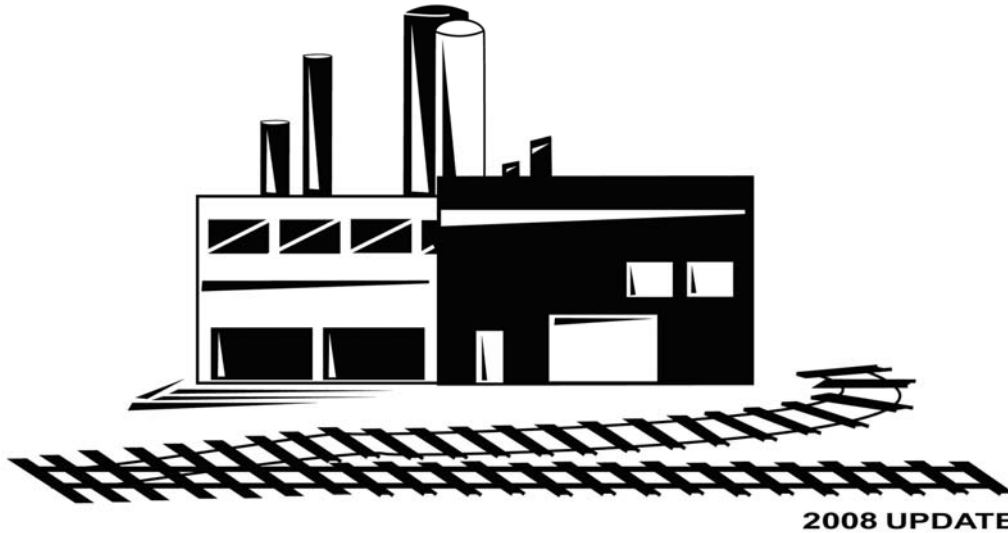


RAILROAD INDUSTRIAL ACCESS PROGRAM



APPLICATION PROCEDURES

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INTRODUCTION

I-A. PURPOSE:

The General Assembly of Virginia as enacted under Section 33.1-221.1:1 of the Code of Virginia declared its purpose for the Industrial Access Railroad Tracks Program. The General Assembly declares it to be in the public interest that access railroad tracks and facilities be constructed to certain industrial commercial sites where rail freight service is or may be needed by new or substantially expanded industry and that financial assistance be provided to areas seeking to furnish rail freight trackage between the normal limits of existing or proposed common carrier railroad tracks and facilities and the actual site of existing or proposed commercial buildings or facilities.

I-B STATE POLICY:

The Commonwealth Transportation Board on November 16, 1995 passed a resolution for the use of Industrial Access Railroad Tracks Program to provide funding which is intended to be used as an incentive to encourage industrial or commercial development in the Commonwealth of Virginia. It is not intended to fund projects that will not have a significant economic impact.

I-C PROGRAM CONTACT

Questions related to the Industrial Access Railroad Tracks Program should be directed to the Department of Rail and Public Transportation, Freight Rail Operations, Policy and Planning Section at the following address, and phone and fax numbers.

Kevin B. Page, Chief of Rail Transportation
Virginia Department of Rail and Public Transportation
1313 East Main Street, Suite 300
P.O. Box 590
Richmond, Virginia 23218-0590

Telephone (804) 786-3963
FAX (804) 225-3752
email: kevin.page@drpt.virginia.gov

PROGRAM ADMINISTRATION

II-A ADMINISTRATIVE RESPONSIBILITY

The industrial access railroad track program is administered by the Director of the Department of Rail and Public Transportation (DRPT) in accordance with decisions of the Commonwealth Transportation Board. The Director may consult with the Commissioner of Agriculture and Consumer Services, the Director of the Office of Business Assistance, and the Director of the Economic Development Partnership (or their designated representatives) concerning applications for funds in accordance with the Code of Virginia. The DRPT staff will receive and process applications, make recommendations to the Board, and supervise the program and approve for payment the costs incurred and invoiced by the Grantee.

APPLICATIONS FOR FUNDING MUST BE ADDRESSED TO THE FOLLOWING:

**Director,
Virginia Department of Rail and Public Transportation
1313 East Main Street, Suite 300
P.O. Box 590
Richmond, Virginia 23218-0590**

II-B ELIGIBLE RECIPIENTS

The following organizations are eligible to apply for Industrial Access Railroad Track funding:

1. Business, Commercial or Industrial Enterprises
2. Municipal and County Governments may apply for funding on behalf of a business, commercial or industrial enterprise
3. Local Departments of Economic Development may apply for funding on behalf on business, commercial or industrial enterprise
4. Railroads

All applications for industrial access railroad track funds shall be discussed with the appropriate local government. Each application shall be accompanied by a resolution from the local governing body requesting that such funds be allocated to the proposed project. The Rail Industrial Access Program is coordinated with the Economic Development Partnership or the Office of Business Assistance. This effort is reflected in the project selection criteria point system.

II-C ELIGIBLE COST

Eligible project cost includes the following:

1. Site Preparation (including grading and drainage)
2. Track Construction
3. Track Reconstruction
4. Track Improvement
5. Engineering
6. Environmental Mitigation

Funds may be used to construct, reconstruct, or improve part or all of the necessary tracks and related facilities on public or private property currently used or being developed, existent or prospective, for single industries or industrial subdivisions under firm contract or already constructed, including those subdivisions owned or promoted by railroad companies and others.

II-D INELIGIBLE COST

Ineligible project cost includes the following:

1. Relocation of Utilities
2. Switches and track to clear point connecting the access track to the main line
3. Acquisition of Right-Of-Way

If the total project costs exceed the available funds for a specific project, the expenditures will be approved in the following priority order: 1) track materials, 2) installation, 3) engineering, 4) drainage, 5) grading, 6) environmental mitigation. Eligible items of construction shall be limited to those items necessary to provide adequate and safe rail service between the clear point and the industry being served.

II-E ALLOCATION OF FUNDS

No more than \$450,000 of the funds shall be allocated to any one county, town, or city in any fiscal year. No more than \$300,000 of unmatched funds may be allocated to any one project in any fiscal year. The unmatched funds may be supplemented with additional matched funds, in which case the matched state funds shall not be more than the annual locality allocation. Any funds in excess of \$300,000 shall be matched dollar-for-dollar by the recipient or from other non-program sources. The amount of industrial access railroad track funds allocated to a project shall not exceed 15 percent of the capital outlay of the designated business. The 15 percent limitation and the maximums on matched or unmatched funding may be waived at the discretion of the Board.

The Board may consider a supplementary allocation to any project, provided such

supplementary allocation does not exceed the established funding limitation for the project. The Director shall have the authority to increase the allocation to any project by 10 percent due to unanticipated problems provided such increases do not exceed the funding limitation for the project.

The Board shall, in the evaluation of projects, consider the cost of construction of an access track in relation to the prospective volume of rail traffic, capital investment, potential employment, or other economic and public benefits.

II-F EXPENDING COMMITTED FUNDS

Committed industrial access railroad track funds are those funds allocated to a project but not necessarily spent in the year of allocation. Committed funds shall be expended within 24 months. The Director may extend this time limit for a reasonable period.

II-G OWNERSHIP AND THE COMMONWEALTH'S RETAINED INTEREST

The Applicant/Designated Grantee shall be contractually committed to providing the Commonwealth with a contingent interest in that portion of trackage and facilities constructed or improved with the use of industrial access railroad track funds, for the useful life of the project as determined by the Director of the Department of Rail and Public Transportation. Said portion shall be defined by the agreement. The access railroad track shall be made available for use by all common carriers using the railway system to which they connect. A certification issued by the landowner or using business stating that they will provide for the continuous maintenance and assume the liability of the tracks and facilities.

Guarantees as to the right of way and adjustment of utilities, to include their source of donation or funding shall be given by the landowner or using business.

Any cost involved in any subsequent relocation or removal of industrial access railroad track facilities shall be borne by the landowner, using business or developer. Following relocation, the Commonwealth's interest will be redefined. In case of removal, the Commonwealth will be reimbursed the value of the facilities in which it has an interest.

II-H PURCHASING OR SELLING INDUSTRIAL ACCESS TRACKS

The Commonwealth may, at its option, allow the industry; using business or developer to purchase the Commonwealth's interest in an industrial access railroad track facility at a value determined by the Director. In the event the landowner, using business or developer desires to sell their property or interest on which access tracks have been constructed under this program, said sale will be subject to the Commonwealth's vested interest and written approval.

II-I INDUSTRY CERTIFICATIONS AND REPAYMENT

The industry shall certify that it will provide the jobs and the rail traffic (carloads) indicated in the project application.

The grant recipient will be required to repay the Department its contribution to the cost of the construction and materials, less depreciation if the project tracks are abandoned, relocated or sold (without a grant assignment).

II-I INDUSTRY CERTIFICATIONS AND REPAYMENT (Continued)

The grantee will also be required to repay the Department its contribution to the cost of the access track if:

1. Rail use (carloads) for the first five years is significantly below the commitment levels specified to qualify the applicant for funding.
2. Job commitment for the first two years falls significantly below the commitment levels specified to qualify the applicant for funding.

II-J ACCOUNT RECORDS, REPORTS

The Grantee shall establish and maintain separate accounts for the project. The Grantee and its subcontractors shall retain all records pertaining to this project for three years from the date of the final payment from the DRPT.

II-K PAYMENT

The Grantee shall submit copies of the paid invoices with a letter requesting reimbursement as soon after the project has been completed as possible. However the request for payment must be within the twenty-four month contract period for expending funds. The Director may extend the contract period due to extenuating circumstances upon receipt of a request.

Once the Department has received notice that the project has been completed it shall perform a field review of the project to ensure that the project has been successfully completed. This shall be done as quickly as time permits but not later than twenty days from receiving the notice that the project has been completed.

II-L PROJECT SELECTION AND IMPLEMENTATION

The Department of Rail and Public Transportation will assemble all necessary data and documents and review the proposals. Using the procedures outlined, the Department will develop recommendations. These recommendations will be provided to the Director who will present recommendations to the Board Committee. The Board Committee will provide recommendations to the Board that will establish

priorities and allocate funds for selected projects.

Following the approval of project funding, the applicants will be notified of the results. The successful applicants will be required to enter into the contractual commitments required under Item 5 of the Industrial Access Railroad Track Policy pertaining to responsibility for maintenance, liability, relocation, and removal. In projects involving the reconstruction or improvement of existing tracks or facilities, only those materials installed with the use of

industrial access railroad track funds shall become subject to the contingent interest requirements of the Commonwealth. Ownership of materials and facilities in place prior to project implementation shall remain with the original owner.

An inspection and documentation of the work performed and materials installed will be made prior to final audit and payment.

All approved invoices will be transmitted to the Virginia Department of Transportation for payment from funds allocated for the Access Programs.

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APPENDIX A
PROJECT SELECTION CRITERIA POINT SYSTEM

PROJECT SELECTION CRITERIA POINT SYSTEM

(80-100 EXCELLENT) (65-80 GOOD) (50-65 FAIR)

UNDER 50 WILL NOT BE RECOMMENDED

1. Total Number of Carloads (Annually)
 - a. 501 or greater 20 points
 - b. 401 to 500 17 points
 - c. 301 to 400 14 points
 - d. 201 to 300 11 points
 - e. 101 to 200 8 points
 - f. 100 or less 5 points
2. Added Employment
 - a. 101 or greater 20 points
 - b. 76 to 100 17 points
 - c. 51 to 75 14 points
 - d. 26 to 50 11 points
 - e. 25 or less 8 points
3. Commonwealth's Portion of Track Construction per Initial Capital Investment Cost
 - a. 0.03 or less 10 points
 - b. 0.04 to 0.06 8 points
 - c. 0.07 to 0.10 6 points
 - d. 0.11 to 0.14 4 points
 - e. 0.15 2 points
4. Jurisdictional Unemployment Rate (Statewide Unemployment Rate [R])
 - a. (R + 2.5) or greater 20 points
 - b. (R + 2.0) to (R + 2.4) 17 points
 - c. (R + 1.5) to (R + 1.9) 14 points
 - d. (R + 1.0) to (R + 1.4) 11 points
 - e. (R + .9) or less 8 points
5. Project included by Virginia Economic Development Partnership or the Virginia Department of Business Assistance as part of initiatives to bring or expand industry in Virginia. 10 points

6. Non-State Contributions to Track Construction
 - a. 41% or greater 10 points
 - b. 31% to 40% 8 points
 - c. 21% to 30% 6 points
 - d. 11% to 20% 4 points
 - e. 10% or less 2 points
7. Contributes to the long term viability of a branchline 10 points

Note: Any applicant receiving less than 50 points will not receive a favorable recommendation from the staff unless there are extenuating circumstances.

In the event that two or more projects receive identical scores, the Fiscal Stress Index developed by the Commission on Local Government may be used to determine funding priority.

- o Forms of property control other than ownership will be considered.
- o These situations will have to be studied on a case by case basis due to the potential for loss of connecting service.
- o Use unemployment data for the latest available period.

APPENDIX B
SAMPLE LOCALITY RESOLUTION

**SAMPLE RESOLUTION FOR LOCAL SUPPORT OF THE UTILIZATION OF
INDUSTRIAL ACCESS RAILROAD TRACK FUNDS**

A RESOLUTION OF THE

(name of political subdivision and governing board, council, or transportation district here)

WHEREAS, (name of industry) HAS EXPRESSED ITS INTENT AND DESIRE TO THE (name of political subdivision and governing board, council, or transportation district here) TO LOCATE ITS COMMERCIAL, BUSINESS OR INDUSTRIAL OPERATIONS IN (name of City, County or Town), AND

WHEREAS, (name of industry) AND ITS OPERATION WILL REQUIRE RAIL ACCESS;
AND

WHEREAS, THE OFFICIALS OF (name of industry), HAVE REPORTED TO THE COUNTY THEIR INTENT TO APPLY FOR INDUSTRIAL ACCESS RAILROAD TRACK FUNDS FROM THE COMMONWEALTH OF VIRGINIA'S DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION IN THE AMOUNT OF \$ (amount being applied for), AND;

WHEREAS, (name of industry), HAS REQUESTED THAT THE (name of political subdivision and governing board, council, or transportation district here) PROVIDE A RESOLUTION SUPPORTING ITS APPLICATION FOR SAID FUNDS WHICH ARE ADMINISTERED BY THE VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION.

NOW, THEREFORE, BE IT RESOLVED, THAT THE BOARD OF SUPERVISORS OF THE (name of political subdivision and governing board, council, or transportation district here) HEREBY ENDORSES AND SUPPORTS THE APPLICATION OF (name of industry) , FOR \$ (amount being applied for) IN INDUSTRIAL ACCESS RAILROAD TRACK FUNDS; AND

BE IT FURTHER RESOLVED, THAT THE (name of political subdivision and governing board, council, or transportation district here) HEREBY MAKES KNOWN ITS DESIRE AND INTENT TO ASSIST THE COMMONWEALTH TRANSPORTATION BOARD IN PROVIDING THE MAXIMUM FINANCIAL ASSISTANCE TO (name of industry), FOR THE PURPOSE OF LOCATING ITS BUSINESS, COMMERCIAL OR INDUSTRIAL FACILITY IN (name of City Town or County).

ADOPTED: _____

(title of mayor or chairman, political subdivision)

CLERK

APPENDIX C
AGREEMENT

THE FOLLOWING STANDARD AGREEMENT HAS BEEN DEVELOPED AND APPROVED BY THE OFFICE OF THE ATTORNEY GENERAL AND IS PROVIDED FOR REFERENCE ONLY. THE ACTUAL AGREEMENT WILL BE DEVELOPED AND COMPLETED BY THE VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION AFTER THE APPROVAL OF THE PROJECT BY THE COMMONWEALTH TRANSPORTATION BOARD. ANY APPLICANT WISHING TO RECEIVE FUNDS ALLOCATED THROUGH THE INDUSTRIAL ACCESS RAILROAD TRACKS PROGRAM MUST ENTER INTO AGREEMENT TO AND ABIDE BY ITS PROVISIONS TO RECEIVE REIMBURSEMENT OF FUNDS ALLOCATED FROM THE PROGRAM. THERE WILL BE NO CHANGES MADE TO THE BODY OF THIS AGREEMENT EXCEPT PERTAINING TO THE APPROPRIATE NAMES, ASSIGNMENTS, DATES AND PROJECT DESCRIPTIONS, OR AT THE DIRECTION OF THE COMMONWEALTH TRANSPORTATION BOARD PRIOR TO THE APPROVAL OF THE PROJECT.

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION
INDUSTRIAL ACCESS FUNDING AGREEMENT**

GRANTEE: *(insert name of Grantee)*
PROJECT: *(insert name of Project)*

AGREEMENT NUMBER: *(insert number)*

APPLICATION NUMBER: *(insert number)*

INDUSTRIAL ACCESS FUNDING AGREEMENT

Agreement Number: (insert number)

THIS INDUSTRIAL ACCESS FUNDING AGREEMENT, hereinafter referred to as "Agreement", is made and executed as of the _____ day of _____, 200_ between the Virginia Department of Rail and Public Transportation, hereinafter referred to as the "Department," acting by and through its Director, and the *(insert name of Grantee)*, hereinafter referred to as the "Grantee."

RECITALS

WHEREAS, the Grantee proposes to construct an industrial access rail facility to serve *(insert name of business to be served)* as set out in its application dated *(insert date of application)* (the "Project"); and,

WHEREAS, the Grantee's application for funds was approved by its local governing body, *(insert name of local governing body)* on *(insert date of approval)*;

WHEREAS, in accordance with § 33.1-221.1:1 of the Code of Virginia (1950), as amended, the Commonwealth Transportation Board (CTB), on *(insert date of CTB approval)*, approved funding for said Project, having considered the cost thereof in relation to the prospective volume of rail traffic, capital investment, potential employment and other economic and public benefits; and

WHEREAS, the Grantee understands and acknowledges that § 33.1-221.1:1(F) of the Code of Virginia 1950, as amended, requires that the tracks and facilities constructed with funds provided pursuant to this Agreement must be made available for use by all common carriers using the railway system to which they connect; and

WHEREAS, it is desired by the parties hereto to define the extent of the Project addressed herein, the responsibilities of each party, the manner of performing the necessary work, the method and time of payment, and to set out additional conditions associated with the Project; and,

WHEREAS, the parties desire to procure the Project for the lowest possible amount.

(optional) WHEREAS, *(insert here any additional factual information necessary to the contract)*; and

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth, it is agreed and bound between the parties hereto as follows:

DEFINITIONS

Container means a standardized intermodal freight cargo unit that can be loaded onto ships, railroad cars, and trucks. There are several different common standard lengths and heights, with approximate dimensions of 40 to 53 feet in length and 8.5 to 9.5 feet in height.

Contractor(s) means private contractor(s), including consultants, which may be engaged by Grantee to perform the Work.

Designated Representative(s) means a person or persons appointed by the Grantee or the Department to represent, in whole or in part, the party in issues associated with the Work or this Agreement.

Eligible Project Costs means a cost directly associated with the Work.

Force Majeure Event(s) means fire, flood, war, rebellion, riots, strikes, or acts of God, which has the effect of preventing either party from timely or properly performing its obligations under this Agreement.

Funding Agreement means the agreement between the parties that sets the Project Budget and project funding and provides that project shall be completed regardless of overruns that are to be borne at the cost of the Grantee.

Grantee Contribution means, for the purpose of the statutory match for this project, a contribution of at least 30 percent of total Project costs.

Intermodal Unit means a Container or semi-truck trailer (counted as a Container for purposes of Attachment A) moved on at least part of its trip by railcar.

Monthly Progress Report means a monthly written progress report including any changes or updates to the Project Schedule, Budget and information as provided in Attachment B.

Notice to Proceed means written notice issued by the Department authorizing the Grantee to commence a particular portion of the Work.

Performance Period means the specified period beginning with the first complete calendar year after acceptance of the Work by the Department.

Project Benefit means the public benefit provided by the Project for the Commonwealth of Virginia.

Project Budget means the budget for the Work in single or multiple years as broken into total costs, the Department and the Grantee participation and any subsequent amendments thereto.

Project Expense means the cost and expenses in connection with the Project.

Project Invoice Form means the form provided by the Department to the Grantee to use for submission for reimbursement of Eligible Project Costs incurred and paid by the Grantee.

Project Schedule means the schedule for completing the Work as agreed to by the parties and any subsequent amendments thereto.

Re-work means work required to correct deficiencies in the Project brought about by incomplete work, incorrect work, failure to comply with the provisions of this Agreement or state or federal regulations.

Work means any and all tasks, duties, obligations, services, requirements, and activities of whatever kind or nature, express or implied, direct or incidental, to be performed, and all items tangible and intangible, to be provided by the Grantee as defined as part of this Agreement.

ARTICLE 1 SCOPE OF WORK, BUDGET AND MILESTONE SCHEDULE

Section 1.1 The Work under the terms of this Agreement is described as follows: *(insert description of Project)* as detailed in *(insert plan sheet title)*, which plans must meet the approval of the serving Railroad. Any other plans and specifications developed for this Project will be forward to the Department for approval and will be attached to this Document.

Section 1.2 The initial Project Budget and milestone schedule as an estimate at date of Agreement is as follows:

Total Project Budget	<u><i>\$(insert figure)</i></u>
Maximum Commonwealth Participation:	<u><i>\$(insert figure)</i></u>
Participation by the Grantee:	<u><i>\$(insert figure)</i></u>

It is agreed that the maximum funding for reimbursement by the Department as provided for in its Fiscal Year 200_ Program of Projects shall be as follows:

Fiscal Year 200_ <i>(insert fiscal year dates)</i>	<u><i>\$(insert figure)</i></u>
Maximum Commonwealth Participation:	<u><i>\$(insert figure)</i></u>
Participation by the Grantee:	<u><i>\$(insert figure)</i></u>

<u>Milestone Schedule Description</u>	<u>Estimated Date of Milestone</u>
Milestone dates are estimates only and there shall be no penalty for non-compliance	

Planning, Design, and Engineering Completion	<i>(insert date)</i>
--	----------------------

Construction Start Date	<i>(insert date)</i>
Construction Completion Date	<i>(insert date)</i>
Project Acceptance by Commonwealth	<i>(insert date)</i>
Performance Period Start Date	<i>(insert date)</i>
Performance Period Completion Date	<i>(insert date)</i>
Project Closeout Date	<i>(insert date)</i>

Amounts not spent in Fiscal Year 200_ shall be carried over into subsequent years, so that the entire \$ *(insert figure)* is available for reimbursement for Eligible Project Costs during the life of the Project. However, Grantee shall complete the Project within a reasonable period of time. It is understood by the parties that the initial Project Budget as stated above is an estimate as of the date of contracting only, and may be lower or higher by the time of construction.

Section 1.3 Subject to the terms of this Agreement, the Department shall make public funds available to the Grantee in accordance with Section 1.1, up to the amount specified in the Project Budget. Said funding has been provided through the Virginia General Assembly through the use of a General Fund appropriation and said funds have been allocated by the Commonwealth Transportation Board subject to the terms of this Agreement. If in the event that these appropriated and allocated General Funds are diminished, the Department will seek to provide Industrial Access Funds to replace any reduction of General Funds appropriated and allocated subject to the terms of this Agreement.

Section 1.4 The Grantee is responsible for constructing or having the Project proposed under the application constructed. In the event that the Grantee is not performing the work as described in Section 1.1, the plans and specifications being performed by others shall be approved by the Grantee and the Department.

Section 1.5 In the event that the Grantee receives subsequent allocation(s) of state funding from another source or federal funding applicable to this Project, the allocation(s) set forth herein from the Industrial Access Fund shall be reduced by the amount of the subsequent allocation(s).

Section 1.6 Any cost of completing the Work in excess of the Project Budget shall be the responsibility of the Grantee. However, the Grantee has the right to revise the Project at its discretion so that total Project costs do not exceed the Project Budget provided that the Work is completed as described in Article 1. Project Benefit pursuant to this Agreement shall remain unchanged by revisions or alternations to the Work.

Section 1.7 A Monthly Progress Report including any changes or updates to the Project Budget and Schedule, and information as provided will be submitted to the Department. The

Report will make particular reference to progress towards completing milestones contained in the Progress Schedule. A sample Monthly Progress Report with required information in addition to the Project Budget and Schedule submission is provided in Attachment B.

Section 1.8 Funding availability is subject to annual appropriation by the General Assembly and allocation by the Commonwealth Transportation Board.

ARTICLE 2 PLANNING, DESIGN, ENGINEERING AND CONSTRUCTION

Section 2.1 Execution of this Agreement shall be deemed to consummate the Conditional Notice to Proceed dated (*insert date*) granted by the Department for the Work described in Section 1.1.

The cost of any preliminary engineering, design, or order of any material for the Work from (*insert date*) to the date of this Agreement is considered an Eligible Project Cost and is eligible for reimbursement under the terms of this Agreement. The Department has provided written approval of the Project Scope, Project Budget, and Schedule. The Department's approval does not make any warranty as to the accuracy or suitability of the information submitted, nor does it relieve the Grantee of any liability under this Agreement. Such submissions provided shall contain the approval of the Grantee in those situations where the submitter is not the Grantee.

Section 2.2 The Grantee shall not commence the Work described in Article 1 until the Department has issued in writing a Notice to Proceed for this Work. Prior to issuing the Notice(s) to Proceed, the Grantee must submit a Scope of Work, Project Budget, and a Milestone Schedule for each part of the work to the Department for approval. The Estimated and a Final Project Budget and Project Schedule shall be attached to this Agreement as Attachment D.

Section 2.3 Notwithstanding Section 2.1, in the event the Grantee desires to perform preliminary engineering, design, or order any material for the Work prior to receiving Notices to Proceed from the Department, the Grantee shall formally request a Letter of No Prejudice from the Department. The costs for such preliminary engineering, design, or material will only be considered Eligible Project Costs if the costs are incurred after issuance of the Department's Letter of No Prejudice and upon the issuance of Notices to Proceed. However, nothing shall obligate the Department to reimburse the Grantee for any portion of the cost of such design or material in the absence of the Department's Letter of No Prejudice or Notices to Proceed.

Section 2.4 The Department reserves the right to reject any Plans, Specifications, Project Budget or Project Schedule because the Department's own analysis reveals that significant cost or schedule savings could be achieved through other contracting means than Grantee proposes, and meet the Grantee's performance and/or Project requirements.

Section 2.5 The Grantee shall design and construct according to the most recently approved Project Budget and Project Schedule.

Section 2.6 Notwithstanding any other provision in this Agreement, the Grantee shall inspect or shall have inspected the Work to:

- A. Ensure that it complies with the contract specifications;
- B. Verify quantitative measures of materials installed, such as tie counts; and
- C. Verify labor and materials charges for contracts providing for payment on an actual cost basis.

Section 2.7 Notwithstanding any other provision in this Agreement, if the Grantee, the Department, or inspectors duly authorized to uphold applicable federal, state, and local laws regarding construction and operating practices, determines that any material or construction is not in accordance with the Grantee's standards as informed by the American Railway Engineer and Maintenance of Way Association (AREMA), or any applicable federal, state, or local law, the Grantee shall replace materials or correct any workmanship necessary to cure the deficiency. The Grantee shall not use any funds provided under this Agreement to pay for a replacement or correction required under this subsection.

Section 2.8 Notwithstanding any other provision in this Agreement, the Department may take any action, including the inspection of the Project site and all books and records of the Grantee, any Contractor or subcontractor, relating to any project or task receiving funds under this Agreement, to review activities under this Agreement and the adequacy of the Grantee's monitoring efforts.

Section 2.7 Notwithstanding any other provision in this Agreement, the Department shall have access to the Project at all times to inspect and to protect its interest in the Project. The Department representatives will not enter the Grantee's right-of-way without the Grantee's representatives available to provide any necessary protection from train movements. The Department's representatives will comply with all safety rules and regulations of the Grantee, and safety instructions from the Grantee's representatives. The Department and any of its agents who perform inspections shall execute the Grantee's standard form right of entry prior to entry on the Grantee's property at no cost to the Department.

ARTICLE 3 PERFORMANCE REQUIREMENTS

Section 3.1 Project Benefit for the Work described in Article 1 shall be *(insert description)*, per the Grantee's amended application dated *(insert date)*. Annual Project Benefit levels for the Work described in Article 1 throughout the Performance Period of *(insert number of years)* are detailed in Attachment A.

Section 3.2 Notwithstanding any other provision in this Agreement, commencing with the

Performance Period, the Grantee shall submit monthly, in writing or electronically, to the Department a non-auditable report detailing the Grantee's performance relative to the Project Benefit levels detailed in Attachment A. The purpose of this section is solely to assist the Department in reporting benefits achieved as a result of the Rail Industrial Access Program and to assist the Department in reporting performance trends in the Commonwealth. The Grantee shall submit the non-auditable monthly report until such a time that the Department notifies the Grantee in writing that such submission is no longer required.

Section 3.3 Upon Project acceptance as provided for in Article 6 of this Agreement, and throughout the Performance Period, the Grantee shall report annually to the Department its auditable performance relative to the Project Benefit levels detailed in Attachment A. All efforts related to reporting Project Benefit performance under this Article shall be at the Grantee's expense.

Section 3.4 Failure by the Grantee to meet the Project Benefit, shall entitle the Department to reimbursement as prorated over the Performance Period based on the percentage of the Project Benefit not achieved plus interest using the prevailing statutory legal rate of interest established by the Virginia General Assembly calculated from the date when payment is made by the Department to date of payment of any reimbursement amount, as described in Attachment A. Force Majeure event(s) occurring after project acceptance and throughout the Performance Period will automatically extend the Performance Period provided in this Agreement commensurate with the length of delay caused by the Force Majeure event(s), and such length of delay and extension of the Performance Period will be determined and agreed to in writing by both parties.

Section 3.5 In no event shall reimbursement, as defined in this Article, exceed the sums granted by the Department to Grantee under this Agreement as per Attachment A plus interest using the prevailing statutory legal rate of interest established by the Virginia General Assembly calculated from the date when payment is made by the Department to date of payment of any reimbursement amount.

ARTICLE 4 SPECIAL CONDITIONS

Section 4.1 Where the Grantee is acting as overall Project Manager, said employee payroll and indirect costs may be charged directly to the Project. The Department will approve the employees and their rates and surcharges if the Grantee charges such costs to the Project.

Section 4.2 Where applicable and notwithstanding any other provision in this Agreement, the Grantee hereby agrees to provide or have provided continuous maintenance in accordance with the Grantee's standards (as informed by AREMA recommended practices) and, as between the Grantee and the Department, to assume all liability in connection with the implementation and operation of the Project. Grantee further agrees to pay any costs related to the future relocation or removal of the tracks and facilities of the Project.

Section 4.3 All funds granted under this Agreement shall be expended by the Grantee in accordance with the Department's regulations, standard procurement procedures, applicable Virginia law, and accepted good business practices. All plans, specifications, estimates of costs, award of contracts, performance and acceptance of work, and procedures in general are subject at all times to all applicable laws, rules, regulations, and orders.

Comment [n1]: The deleted language is not present in the REF agreement. I presume that should be deleted here.

Section 4.4 Notwithstanding any other provision in this Agreement, funding provided pursuant to this Agreement shall be for the reimbursement of Eligible Project Costs and for no other purpose. All purchases made as a matter of this Agreement shall be charged at the actual cost(s) to the Grantee with no markups.

Section 4.5 Industrial access railroad track funds shall not be used for the purchase of right of way or the adjustment of utilities for this Project. The Grantee's certification of right of way and, if necessary, the responsibility for utility adjustments within the termini of this Project are hereby incorporated by reference.

ARTICLE 5 REIMBURSEMENT OF GRANTEE

Section 5.1 The Grantee shall render invoices no more frequently than once every 30 calendar days for reimbursement of Eligible Project Costs. Each invoice must reflect the percentage of financial participation agreed to by the Department and the Grantee in Article 1. Industrial Access funds allocated to this Project shall be expended and final billing provided to the Department by *(insert date)*. If all allocated funds are not expended by *(insert date)*, they may be withdrawn at the discretion of the Director of the Department.

Section 5.2 Invoices shall be submitted using the form provided as Attachment C of this Agreement. Upon approval by the Department for payment, invoices will be paid within 30 calendar days. Invoices shall be accompanied by the most recently monthly progress report.

Section 5.3 Invoices or line item(s) in invoices not found to be complete as to form or in accordance to the provisions of this Agreement will be separated and a partial payment may be made by the Department on eligible reimbursable expenditures upon approval by the Department.

Section 5.4 The Department shall have the right to request an accounting or more detailed statement of invoices. Upon such a request, the Grantee shall provide the requested information within 30 calendar days.

Section 5.5 Any items of Work reimbursed to the Grantee by the Department and found not to be in accordance with the agreed Work or any applicable federal, state, or local law by the Department in its final audits will be repaid to the Department by the Grantee within 60 calendar days upon submission of the items so disapproved.

Section 5.6 The Grantee is responsible for payment of all contractors. The Grantee shall

attaché to each invoice copies of contractor's paid invoices.

ARTICLE 6 COMPLETION AND ACCEPTANCE

Section 6.1 Upon completion of the Work, the Grantee shall certify in writing that the Work has been completed.

Section 6.2 The Department shall have 60 calendar days after Grantee's certification of completion of the Work in which to reject any portion of the Work. Any such rejection by the Department shall be sent to the Grantee in writing.

Section 6.3 If no rejection is sent by the Department within the 60 calendar-day period, the Performance Period begins the next January 1.

Section 6.4 Final billing for reimbursement shall be provided to the Department within 60 calendar days after Grantee's certification of completion. If Work is accepted by the Department, the final invoice shall be paid as described in Article 5.

Section 6.5 Sixty calendar days after payment of the Final Project invoice, the Department will withdraw any remaining Commonwealth funds as outlined in Article 9.

Section 6.6 Acceptance of the Work by the Department shall not be construed to inure to the benefit of any third parties or create any additional liability to the Commonwealth, as between the Grantee and the Commonwealth, nor does it relieve the Grantee of its liability under this Agreement.

Section 6.7 Any work necessary in connection with the Project, which is not specifically provided for as Work by this Agreement, including but not limited to Re-work, shall be the responsibility of the Grantee.

ARTICLE 7 INTEREST IN COMPLETED WORK

Section 7.1 The portion of the Project consisting of the track, ties, and other track materials which is to be constructed and funded under this Agreement shall be the property of the Department. No ownership interest in the real estate upon which the Project is situated is claimed by the Department or the Commonwealth of Virginia as a result of this Agreement. The Grantee must achieve annual carload usage of *(insert figure)* annual railcars as stated in Grantee's application within five years of the date of this Agreement. Failure to meet annual carload projection within five years of the date of this Agreement qualified the Project for termination and repayment as outlined in Article 9. After the initial five-year period the Commonwealth reserves the right to remove the value of its interest in the property if the tracks are not used for their intended purpose, in order to protect the

Department's long-term interest.

The parties acknowledge and agree that the Department has an interest in ensuring that the improvements created by the Project continue to be operated or used for their intended purpose for a period of *(insert number of years)* ___ years after acceptance of the improvement by the Department. For purposes of this Agreement, the value of that interest shall be the value of the payments made by Department to the Grantee with respect to that improvement less any reimbursement paid by the Grantee to the Department. This section shall be binding on Grantee's successors and assigns.

Comment [n2]: Be sure this change is applicable here.

Section 7.2 The Grantee hereby certifies either owns, controls, or has executed an agreement to purchase or lease the real property upon which the Project will occur and that it will protect and respect the Department's interest in the Project. This section shall be binding on the Grantee's successors and assigns. The Grantee certifies that it has received approvals relative to easements and encroachments that occur as a result of this Project.

ARTICLE 8 SMALL, WOMEN, AND MINORITY (SWAM)

Section 8.1 The Grantee is encouraged to seek and use Small, Women, and Minority (SWAM) enterprises in relation to this Agreement. A SWAM reporting goal of forty percent of total eligible grant expenditures is established by execution of this Agreement by the parties. The Grantee must report such SWAM activity quarterly beginning at the end of the first three month period from date of Agreement and ending upon the quarter that the last payment to the Grantee by the Department is made. The Grantee shall use the reporting form provided in Attachment E and include documentation of efforts to achieve the SWAM goal.

ARTICLE 9 TERMINATION

Section 9.1 The Grantee may terminate the Project at any time by notifying the Department in writing 30 calendar days in advance. If such termination occurs, the Grantee shall repay the Department for all funds received according to the provisions of this Article.

Section 9.2 The Grantee may terminate the Agreement at any time it is determined by Virginia law that the Department has materially breached this Agreement and has failed to cure such breach within 90 calendar days. Should such occur, the Grantee shall be entitled to whatever remedies may be provided for by law or in equity. Furthermore, the Grantee will not be required to repay any funds that have been provided by Department pursuant to this Agreement.

Section 9.3 Upon 30 calendar days notice to the Grantee, the Department may terminate, in whole or in part, the funding under this Agreement at any time it is determined that Grantee has failed to meet carload requirements of Section 7.1 or that Grantee has materially

breached this Agreement and has failed to cure said breach after 90 calendar days notice or if compliance within 90 calendar days is not reasonable as solely determined by the Department, then within such time period as the Department may agree. This section excludes the failure to attain the final Project Benefit(s), which shall not be deemed material breaches entitling Department to terminate this Agreement, but shall entitle Department to repayment as set forth in Article 3.

The Department shall notify the Grantee promptly in writing of such a determination and the effective date of the termination. The Grantee may request reconsideration by notifying the Department within 30 calendar days of the date of the Department's notification. The Department shall not terminate funding until after the request has been reconsidered but may withhold funds in the interim. Following reconsideration, if requested, the decision of the Department will be final. If this Agreement is terminated by the Department for the Grantee's material breach, the Grantee will repay the Department all funds received for the Project. Such payment shall be made within 60 calendar days following notification by the Department of the amount to be repaid.

Section 9.4 Upon 30 calendar days notice to the Grantee, the Department may terminate, in whole or in part, the funding under this Agreement at any time if (1) the Department fails to secure the necessary budgetary appropriation to fulfill its obligations under this Agreement, (2) the Grantee becomes insolvent, (3) the Grantee fails to apply provided funds as intended under this Agreement, (4) the Grantee fails to meet carload usage requirements as specified in Section 7.1, or (5) statutory changes affecting the Program under which these funds were provided render funding with this Agreement impossible. Department shall notify the Grantee promptly in writing of such a determination and the effective date of the termination. The Grantee may request reconsideration by notifying the Department within 30 calendar days of the date of the Department's notification. The Department shall not terminate funding until after the request has been reconsidered but may withhold funds in the interim. Following reconsideration, if requested, the decision of the Department will be final.

Section 9.5 Should the Project be terminated by Department a result of lack of funds or statutory changes, the Department will exercise best efforts to seek funds to be used to defray costs of shutting down and the Grantee need not repay any funds already paid to the Grantee if such funds represent eligible Project Costs that the Grantee has incurred. The Grantee shall repay the Department for all funds paid associated with this Agreement should the Grantee become insolvent or fails to apply funds as intended under this Agreement.

Section 9.6 Delays caused by Force Majeure Events during construction shall not be deemed a breach or default under this Agreement. Upon the occasion of a Force Majeure event, as determined by the Department, which makes it impossible for the Project to be constructed and or moots the need for the Project, the Department may terminate this Agreement at its discretion. Force Majeure events occurring during the performance period of this Agreement will automatically result in day-for-day extension(s) to the performance period specified in this Agreement.

Section 9.7 All reimbursement of the Department for funds granted by the Department under any Article of this Agreement shall also require the payment of interest using the prevailing statutory legal rate of interest established by the Virginia General Assembly, calculated from the date payment is made by the Department to date of repayment by the Grantee. This section shall be binding on the Grantee's successors and assigns.

ARTICLE 10 ASSIGNMENT

Section 10.1 Assignment of any portion of this Agreement shall have the prior written approval of Department.

ARTICLE 11 TERM, ENTIRE AGREEMENT, AND AMENDMENT

Section 11.1 This Agreement shall be effective immediately upon its execution.

Section 11.2 This Agreement constitutes the entire and exclusive agreement between the parties relating to all specific matters covered herein. All prior or contemporaneous verbal or written agreements, understandings, representations, and/or practices relative to the foregoing are hereby superseded, revoked and rendered ineffective for any purpose.

Section 11.3 This Agreement may be altered, amended, or revoked only by an instrument in writing signed by the parties.

ARTICLE 12
NOTICES AND DESIGNATED REPRESENTATIVE

Section 12.1 All notices or communications with respect to this Agreement, shall be in writing and shall be deemed delivered upon delivery by hand, upon the next business day if sent prepaid overnight delivery service, or on the third business day following mailing by U.S. Mail, certified, postage prepaid, return receipt requested, to the addresses set forth below or such other addresses as may be specified by delivery of prior notice by a party to the other parties.

Department: Virginia Department of Rail and Public Transportation
1313 East Main Street, Suite 300
P.O. Box 590
Richmond, VA 23218-0590
Attention: William S. Pittard, Chief Financial Officer
steve.pittard@drpt.virginia.gov

With copy to:
Kevin B. Page, Chief of Rail Transportation
Virginia Department of Rail and Public Transportation
1313 East Main Street, Suite 300
P.O. Box 590
Richmond, VA 23218-0590
kevin.page@drpt.virginia.gov

Nancy C. Auth, Senior Assistant Attorney General
Office of Attorney General
900 East Main Street
Richmond, VA 23219
NAuth@oag.state.va.us

Grantee: *insert Grantee representative's name, title,
address and email address*

With a copy to:
*insert Grantee representative's name, title,
address and email address*

Designated Representative:
Kevin B. Page, Chief of Rail Transportation
Virginia Department of Rail and Public Transportation
1313 East Main Street, Suite 300
P.O. Box 590
Richmond, VA 23218-0590
kevin.page@drpt.virginia.gov

*insert Grantee representative's name, title,
address and email address*

ARTICLE 13 NON-DISCRIMINATION

Section 13.1 In the solicitation or awarding of any contracts directly related to this Agreement, the Grantee shall not discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by Virginia state law relating to discrimination in employment.

Section 13.2 During the performance of this Agreement, the Grantee agrees as follows: (a) the Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by Virginia law relating to discrimination in employment. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause; (b) the Grantee, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, will state that the Grantee, where applicable, is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

ARTICLE 14 MISCELLANEOUS PROVISIONS

Section 14.1 The Grantee shall at all times observe and comply with all federal, state and local laws, regulations, ordinances, orders and decrees applicable to the work or subsequent operation. The obligations of this section shall survive the termination or completion of this Agreement.

Section 14.2 Data or information provided the Grantee to the Department that is protected under federal or state law, or otherwise deemed by the Grantee and the Department as proprietary, will be marked by the Grantee on each document prior to its submission. The Department shall hold and protect said documents identified by the Grantee as proprietary in accordance to law. For the purposes of this Agreement, proprietary items are so specified in Attachment F.

Section 14.3 The Grantee shall maintain all books, documents, papers, accounting records, and any other evidence, showing actual time devoted and supporting the cost incurred. Such books, documents, papers, accounting records, etc. shall be kept in accordance with commonly accepted business accounting procedures. Such information shall be made available at their respective offices at all reasonable times during the Agreement period and for a period of five years from the date of final payment by the Department to the Grantee for audit and inspection. The Grantee shall maintain records of the performance levels reported to the Department for five years after the end of the Performance Period. Copies of such

information shall be furnished to the Department upon request. The Department shall have the absolute right to audit to determine compliance with the terms of this Agreement.

Section 14.4 The Grantee shall be responsible for all damage to life and property due to its activities and those of its subcontractors, agents or employees, in connection with the work performed under this Agreement. In the event that the Grantee obtains insurance to cover this risk, the Commonwealth of Virginia, the Department, the Virginia Department of Transportation, and the officers or agents and employees of these entities shall be listed as additional insureds. Acceptance of the Work by the Department shall not waive any of the rights of the Department contained in this section nor release the Grantee from any responsibilities or duties contained in this Agreement. Further, it is expressly understood that the Grantee shall indemnify, defend and hold harmless the Commonwealth of Virginia, the Department of Rail and Public Transportation, the Virginia Department of Transportation, its officers, agents, and employees from and against all damages, claims, suits, judgments, expenses, actions and costs of every name and description, arising out of or resulting from any negligent act or omission in the performance by the Grantee or its subcontractors of the work covered by this Agreement and, if applicable the subsequent operation of rail service over this Project. The obligations of this section shall survive the termination or completion of this Agreement.

Section 14.5 During the performance of this Agreement, the Grantee agrees to (a) provide a drug-free workplace for its employees; (b) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition; (c) state in all solicitations or advertisements for employees placed by or on behalf of the Grantee that the Grantee maintains a drug-free workplace; and (d) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Agreement.

Section 14.6 No member, officer, or employee of the Department, during his tenure or one year thereafter, shall have any interest, direct or indirect, that is prohibited by Virginia law in this Agreement.

Section 14.7 This Agreement shall, in all respects, be governed by the laws of the Commonwealth of Virginia.

Section 14.8 If any term or provision of this Agreement is determined to be invalid, illegal or unenforceable, it shall not affect the legality or validity or enforceability of any other part of this Agreement, and the remaining parts of this Agreement shall be binding upon the parties to this Agreement.

Section 14.9 This Agreement, when properly executed, shall be binding upon the parties hereto and their respective successors and assigns.

This area intentionally blank

IN TESTIMONY THEREOF, the parties have caused this Agreement to be executed, each by its duly authorized officers, all as of the day, month, and year hereinabove first written.

COMMONWEALTH OF VIRGINIA
Department of Rail and Public
Transportation

WITNESS

BY: _____
(insert name of director)
Director

Seal

(insert name of Grantee)

WITNESS

BY: _____
NAME: _____
TITLE: _____

Attachment A: Performance Requirements

The counting of additional annual Intermodal Units commences with the first calendar year following acceptance of the Work by the Department.

In accordance with Section 3.3, interest shall be paid on the reimbursement amount using the prevailing statutory legal rate of interest established by the Virginia General Assembly calculated from the date when payment is made by the Department to the date of payment of the reimbursement amount.

Project Benefit shall be *(describe the project)*, per the Grantee's amended application dated *(insert date)*.

Performance will be reported annually and Reimbursement will be computed at the end of the *(insert number of years)* year performance period *(Refine definition according to project specifics)*. Commencing with the Performance Period, the Grantee shall submit monthly, in writing or electronically, to the Department a non-auditable report detailing the Grantee's performance relative to the Project Benefit levels detailed in this Attachment. The purpose of this section is solely to assist the Department in reporting benefits achieved as a result of the Industrial Access Fund and to assist the Department in reporting performance trends in the Commonwealth. The Grantee shall submit the non-auditable monthly report until such a time that the Department notifies the Grantee in writing that such submission is no longer required. The final computation report at the end of the *(insert number of years)* -year period will be the auditable report.

This area intentionally blank

Attachment A: Performance Requirements
Table for use in Calculating Reimbursement

A	B	C	D	E	F	G	H	I	J	K	L
Year	Baseline	New Commitment	Total Performance	Percent Of Total	Phase 1 IAF Final Costs to State	Performance Amount	Actual Total Performance Reported	Percent of Units Goal	Amount of Reimbursement	Annual Interest Rate	Total Recovery
			B+C	Year D/Total D		ExF		H/D	G-(GxI)		J+(JxK)
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											
Total							*	*	*	*	*

* To Be Determined Through Performance Period Reporting Process

Attachment B – Sample Monthly Progress Report

Progress Report

Date: ____/____/____

DRPT Project: Number: _____

Grantee Project: _____

Project Type:

New Construction ____ Rehabilitation ____

Study ____ Rail Infrastructure ____

Equipment/Rolling Stock ____

Signals/Communication ____

Other: ____

Reporting Period Range: ____/____/____ thru ____/____/____

Commonwealth Project Funding:

Total Funds Allocated \$

Total Funds Spent: \$

Project Fund Balance: \$

Percent Spent to date: ____%

Minority Business participation this period: Yes ____ No ____

Amount spent this period: \$

Total amount spent: \$

Schedule

Project is on schedule: ____

Project is not on schedule: ____

Project is \leq 5% behind schedule ____

Project is > 5% behind schedule ____

Project is > 10% behind schedule ____

Percent Project Complete: ____%

Response plan:

Milestones Completed

- Scoping ____/____/____
- Construction or Study ____/____/____

Project Issue(s) and Update Narrative:

1.

Submitted by: _____ Date: _____

Attachment C – Sample Project Invoice Page 1

DRPT Voucher: _____

**Department of Rail and Public Transportation
Invoice and Authorization Form**

Organization Name: (Name of Grantee)
EIN: #####-##

Invoice Date DD-MM-YYYY
Invoice # 1

New Address, If applicable

Project Agreement Name: (Project Name)
Project Number: _____

	Federal	State	Local	Total
Total Contract Amount	\$ -	\$ Amount	\$ Amount	\$ Amount
Total of Previous Payments	\$ -	\$ -	\$ -	\$ -
Total Expended This Period	\$ -	\$ -	\$ -	\$ -
Balance Remaining After This Invoice	\$ -	\$ Amount	\$ Amount	\$ Amount

Total Reimbursable Amt for this Invoice \$ -

I certify that the grantee agency has incurred expenses in accordance with the project agreement and that these funds have not been previously requested.

Grantee Authorized Signature _____ Title _____

Note: Percentage calculations are rounded to the nearest dollar.

THIS AREA FOR DRPT USE ONLY:

Grant Manager Signature _____ Date _____

Check here to close project after this request. _____

Attachment C– Sample Project Invoice Page 2

Payment Number	Total Expended This Period	Date of Request	Previous Total
1			\$0.00
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			

Attachment D - Estimated and a Final Project Budget and Project Schedule

Attachment E- SWAM Certification

Attachment F - Grantee's Proprietary Items

APPENDIX D

RIGHT-OF-WAY, MAINTENANCE AND LIABILITY CERTIFICATION

SAMPLE APPLICANT/INDUSTRY CERTIFICATION
(name of applicant/industry here)

(Name of applicant/industry) hereby certifies to the Commonwealth of Virginia that it will provide the right-of-way for and assume liability of any railroad tracks and associated facilities, financed by the Railroad Industrial Access Fund, that are built on its (name of county, city, or town) plant site and subsequent operations. This includes any claims or attempts to hold liable the Commonwealth of Virginia, for any matter concerning the tracks, as a result of the Commonwealth's contingent interest in the tracks. Also, (name of applicant/industry) agrees to assume sole responsibility for the continuous maintenance of these tracks.

(signature here) _____

Printed Name _____ Date _____

Title _____

APPENDIX E
APPLICATION

(ADDITIONAL COPIES OF THIS APPLICATION MAY BE SENT UPON REQUEST,
OR COPIES MAY BE MADE OF THE ENCLOSED APPLICATION)

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION
INDUSTRIAL ACCESS RAILROAD TRACKS**

APPLICATION

APPLICATION DATE: _____

APPLICANT: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

DESCRIPTION OF APPLICANT'S ORGANIZATION (CITY, COUNTY, ECONOMIC
DEVELOPMENT AUTHORITY, ETC.): _____

INDUSTRY/BUSINESS TO BE SERVED BY PROPOSED INDUSTRIAL ACCESS TRACK:

ADDRESS: _____

CONTACT PERSON: _____

TELEPHONE NUMBER: _____

PROPOSED OR EXISTING LOCATION: _____

DESCRIPTION OF PROJECT: _____

LENGTH OF PROPOSED TRACK: _____ ESTIMATED COST: _____

REQUESTED AMOUNT OF RAIL ACCESS FUNDS: _____

THE APPROXIMATE CAPITAL OUTLAY OF THE INDUSTRY TO CONSTRUCT AND EQUIP

IT'S PROPOSED NEW FACILITY: _____

THE APPROXIMATE CAPITAL OUTLAY TO CONSTRUCT AND EQUIP ITS PROPOSED
EXPANSION: _____

ESTIMATED ANNUAL NUMBER OF CARLOADS AND COMMODITY TYPES TO BE
HANDLED ON THE PROPOSED NEW TRACK: _____

IF A NEW INDUSTRY, THE ESTIMATED NUMBER OF PEOPLE TO BE EMPLOYED: _____

IF AN EXISTING INDUSTRY, THE NUMBER OF PEOPLE CURRENTLY EMPLOYED: _____

AND THE ESTIMATED ADDITIONAL EMPLOYMENT TO BE CREATED BY THE
EXPANSION: _____

RAILROAD THAT WILL SERVE BUSINESS OR INDUSTRY: _____

=====

THE FOLLOWING DOCUMENTATION IS TO BE INCLUDED WITH THE APPLICATION:

1. RESOLUTION FROM THE LOCAL GOVERNING BODY SUPPORTING THE PROJECT AND REQUESTING THE RAIL INDUSTRIAL ACCESS FUNDS.
2. LOCATION SKETCH SHOWING THE LOCATION OF THE SITE ON AN AREA MAP.
3. DRAWING OF THE PROPOSED TRACK PROJECT SHOWING THE CLEAR POINT (S).
4. SIGNED APPLICANT/INDUSTRY CERTIFICATION
5. DOCUMENTATION THAT THE RAILROAD OWNING THE MAIN LINE TO WHICH THE PROPOSED ACCESS TRACK WILL CONNECT HAS AGREED TO:
 - A. SERVING THE INDUSTRY OR BUSINESS.
 - B. APPROVING AND/OR PARTICIPATING IN THE CONSTRUCTION OF THE PROPOSED ACCESS TRACK.
 - C. MAKING THE FACILITIES AVAILABLE FOR USE BY ALL COMMON CARRIERS USING THE RAILWAY SYSTEM TO WHICH THE INDUSTRIAL ACCESS TRACK CONNECTS.
6. BACKGROUND INFORMATION ABOUT THE BUSINESS.